



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2014-0909; A-1-FRL-9953-84-Region 1]

Air Plan Approval; NH; Regional Haze 5-Year Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of New Hampshire on December 16, 2014. New Hampshire's SIP revision addresses requirements of the Clean Air Act (CAA) and EPA's rules that require States to submit periodic reports describing progress toward reasonable progress goals (RPGs) established for regional haze and a determination of the adequacy of the state's existing Regional Haze SIP. In addition, the December 16, 2014 submittal includes a revised regulation that reduces the total suspended particulate (TSP) emission limit for the state's sole Tangential-Firing, Dry-Bottom Boiler.

DATES: This rule is effective on **[Insert date 30 days from date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2014-0909. All documents in the docket are listed on the <http://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at

<http://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Anne McWilliams, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square – Suite 100, (Mail Code OEP05-02), Boston, MA 02109 – 3912, telephone number (617)918-1697, fax number (617)918-0697, e-mail mcwilliams.anne@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. Background.
- II. Final Action.
- III. Incorporation by Reference.
- IV. Statutory and Executive Order Reviews.

I. Background

States are required to submit a progress report in the form of a SIP revision every five years that evaluates progress towards the RPGs for each mandatory Class I Federal area within the state and in each mandatory Class I Federal area outside the state which may be affected by emissions from within the state. *See* 40 CFR 51.308(g). In addition, the provisions under 40 CFR 51.308(h) require States to submit, at the same time as the 40 CFR 51.308(g) progress report, a determination of the adequacy of the state's existing regional haze SIP. The first progress report SIP is due five years after submittal of the initial regional haze SIP.

On July 19, 2016 (81 FR 46866), EPA published a notice of proposed rulemaking (NPR) proposing approval of New Hampshire's December 16, 2014 Regional Haze 5-Year Progress Report SIP revision on the basis that it satisfies the requirements of 40 CFR 51.308(g) and (h). The NPR also proposed to approve, and incorporate into the New Hampshire SIP, New Hampshire's revised section Env-A 2302.02 Emission Standards Applicable to Tangential-Firing, Dry Bottom Boilers which had been revised to include more stringent particulate matter emission limits.

The specific details of New Hampshire's December 16, 2014 SIP revision and the rationale for EPA's approval are discussed in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Action

EPA is approving New Hampshire's December 16, 2014 Regional Haze 5-Year Progress Report as meeting the requirements of 40 CFR 51.308(g) and (h). In addition, EPA is approving,

and incorporating into the New Hampshire SIP, New Hampshire's revised section Env-A 2302.02 Emission Standards Applicable to Tangential-Firing, Dry Bottom Boilers.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of New Hampshire's regulation described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available through <http://www.regulations.gov>.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the

rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Regional Haze, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 23, 2016.

H. Curtis Spalding,
Regional Administrator,
EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart EE – New Hampshire

2. In § 52.1520:

a. Paragraph (c) is amended in the table by revising the existing entries for state citation Env-A 2300; and

b. Paragraph (e) is amended by adding a new entry at the end of the table.

The revision and addition read as follows:

§ 52.1520 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA-Approved New Hampshire Regulations

State citation	Title/subject	State effective date	EPA approval date ¹	Explanations
**	*	*	*	**
Env-A 2300	Mitigation of Regional Haze	11/22/2014	[Insert Federal Register date of publication date] [Insert Federal Register citation]	Revises Env-A 2302.02
**	*	*	*	**

¹ In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

(e) Nonregulatory.**New Hampshire NonRegulatory**

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date³	Explanations
**	*	*	*	**
Regional Haze Five-Year Progress Report	Statewide	12/16/14	[Insert <u>Federal Register</u> date of publication date] [Insert <u>Federal Register</u> citation]	

³ In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

[FR Doc. 2016-24495 Filed: 10/11/2016 8:45 am; Publication Date: 10/12/2016]